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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,934	08/01/2003	Kevin A. Zeisset	8049.0918	4999
22852	7590	09/30/2008		
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413				
			EXAMINER	
			DANNEMAN, PAUL	
			ART UNIT	PAPER NUMBER
			3627	
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			09/30/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/632,934	ZEISSET ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	PAUL DANNEMAN	3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 05 June 2008.
- 2a) This action is **FINAL**.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-61 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-61 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### Response to Amendment

1. This action is in reply to Applicant's response filed on 5 June 2008 to the first office action.
2. All pending claims 1-61 in this application have been examined.
3. Claims 1, 15, 20, 29, 43 and 56-57 have been amended.
4. Claims 58-61 are newly added claims.

### Response to Arguments

5. Applicant argues regarding the rejection of Claims 1, 15, 29, 43, and 57 that "***Sansone does not disclose the combination of elements of amended claim 1 including, for example, 'measuring the performance of the delivery carriers.'***" The Examiner disagrees, Sansone in at least Column 3, lines 22-25 states that the principal objective of the invention is to provide a system and apparatus that enables a more efficient and effective use of the postal facility. Sansone in at least Column 10 lines 65-67 and Column 11, lines 1-12 clearly states that a feature of the inventive system is to optimize delivery of mail and improvements in efficiency and cost savings can be achieved by a judicious choice of the conversion location utilizing such factors as location of addresses and mailers, location of second stations, location of Postal Offices, resources available including manpower, equipment, urgency of mail and batch sizes, etc. Sansone in at least FIG.6A, FIG.6B and Column 14, lines 5-31 still further discloses determining the optimum carrier and route which yields a greater efficiency. However, Williams (US 2002/0032573 A1) in at least paragraph [0027] discloses auditing Carrier performance to collect information required to negotiate the most favorable rates with the associated Carriers.

6. Applicant argues regarding the rejection of Claim 57 that Sansone does not teach "***receiving a change in the assignment data file***". There is insufficient support for this limitation in the original specification.

***Specification***

7. The amendment filed 5 June 2008 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: **Claim 57** recites a limitation "*receiving a change in the assignment data file*", which is not supported by the specification.

Applicant is required to cancel the new matter in the reply to this Office Action.

***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

9. **Claim 57** is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. **Claim 57** recites the limitation "*receiving a change in the assignment data file*" which is considered new matter.

***Claim Rejections - 35 USC § 103***

10. **Claims 1-57** are rejected under 35 U.S.C. 103(a) as being unpatentable over Sansone et al, US 5,068,797 hereafter known as Sansone further in view of Williams et al. US 2002/0032573 A1 hereafter known as Williams.

**Claims 1, 15, 29, 43 and 57:**

With regard to the limitations:

- ***Receiving delivery data from mail processors.***
- ***Determining routes for delivery using delivery data and business rules.***
- ***Assigning mail items to delivery carriers based on determined routes.***
- ***Transmitting mail item assignment information to mail processors.***

Sansone in at least Column 3, lines 5-8, Fig.6A, Fig.6B, Column 13, lines 50-67, and Column 14, lines 32-61 teaches a system for improving delivery efficiency by the evaluation of delivery routes, types of carriers, selecting routes and scheduling the carriers to deliver the mail and feeding back to the data center all the associated data allowing the main station to engage in short-term planning regarding resource utilization.

- ***Measuring the performance of the delivery carriers.***

Sansone, does not specifically disclose the limitation above, per se, however Sansone in at least Column 3, lines 22-25 states that the principal objective of the invention is to provide a system and apparatus that enables a more efficient and effective use of the postal facility. Sansone in at least Column 10 lines 65-67 and Column 11, lines 1-12 clearly states that a feature of the inventive system is to optimize delivery of mail and improvements in efficiency and cost savings can be achieved by a judicious choice of the conversion location utilizing such factors as location of addresses and mailers, location of second stations, location of Postal Offices, resources available including manpower, equipment, urgency of mail and batch sizes, etc. Sansone in at least FIG.6A, FIG.6B and Column 14, lines 5-31 still further discloses determining the optimum carrier and route which yields a greater efficiency. However, Williams (US 2002/0032573 A1) in at least paragraph [0027] discloses auditing Carrier performance to collect information required to negotiate the most favorable rates with the associated Carriers.

Therefore, it would have been obvious, at the time of the invention, to one of ordinary skill to modify Sansone's System for Optimizing Mail Delivery by Routing with Williams' system for

Auditing Carrier performance with the motivation of providing a measurement of past performance in order to develop an action plan for refining the efficiency of an agency.

**Claim 57:**

With regard to the limitations:

- *Receiving delivery data from mail processors.*
- *Determining routes for delivery using delivery data and business rules.*
- *Assigning mail items to delivery carriers based on determined routes.*
- *Printing labels with mail item routing information.*
- *Receiving a change in the assignment data file.*

Sansone in at least Column 3, lines 5-8, Fig.6A, Fig.6B, Column 13, lines 50-67, and Column 14, lines 32-61 teaches a system for improving delivery efficiency by the evaluation of delivery routes, types of carriers, selecting routes and scheduling the carriers to deliver the mail and feeding back to the data center all the associated data allowing the main station to engage in short-term planning regarding resource utilization. Sansone in at least Column 4, lines 1-20 further discloses printing mail batch or manifest information. Sansone in at least Column 4, lines 26-35 discloses selecting carriers and routing of carriers to reduce expenses. Sansone in at least Column 8, lines 57-67 further discloses “**changes in carrier routes**” which are used by the data center to sanitize the mailing address list used by the mailing equipment to route the mail to the new assigned route. Sansone in at least Column 11, lines 16-21 discloses computing a route for the carrier, (Col. 11, lines 33-36) further discloses creating mail batches and their assorted printed documentation and in Col.11, lines 64-67 organizing and scheduling carrier pick-up, routing, and delivery of batch mail to the second station.

**Claims 2-10, 16-24, 30-38, and 45-53:**

With regard to the limitations:

- ***Route determination includes processing active, planned and closed routes.***
- ***Route determination includes cost consideration information,***
  - ***Route delays due to weather,***
  - ***Route closures based on information from the delivery carriers.***
- ***Cost consideration includes contractual obligation to the delivery carriers.***
- ***Cost consideration includes determining a lowest cost service window.***
- ***Cost consideration includes delivery option information.***
- ***Delivery options include at least one of aircraft, trains, motor vehicles and ships.***

Sansone in at least Column 14, lines 32-58 discloses route determination of active, planned and closed routes with respect to the delivery options or carrier capability. Sansone does not disclose weather delays per se, however in at least Column 14, lines 58-61 discloses interrogating the data center as being useful in the event of an emergency that results in the loss or reduction of usability of one or more of the routes. Therefore, it would be obvious, at the time of the invention, to one of ordinary skill in the art that weather delays are one type of emergency. Sansone does not disclose contractual obligations per se. However, Sansone in at least Fig.6B, Column 14 lines 62-67 and Column 15, lines 1-10 discloses route and carrier optimization to reduce costs. Sansone in at least Column 17 further discloses employing data center information to adjust staff levels and transportation facilities, etc. Sansone in at least Column 18, lines 6-19 discloses the data center in communication with mailers can advise mailers and the Postal system on choice of carriers and routing to optimize mail batch deliveries. Therefore, Sansone in adjusting staff levels and communicating with mailers and carriers is taking into account contractual obligations and fully discloses all the limitations of applicant's invention.

**Claims 11-14, 25-28, 39-42, 44, and 54-56:**

With regard to the following limitations:

- ***Creating an assignment manifest, in hardcopy and electronic form.***
- ***Transmitting the assignment manifest to at least one delivery carrier.***
- ***Tracking deliveries of mail items using a performance manager.***
- ***System utilizes a network for communication.***

Sansone in at least Column 3, lines 1-8, Column 4, lines 1-62, and Column 13, lines 33-49 discloses a station interconnected with a communications network link with the data center for exchanging manifest information, selecting carrier and routing of carriers, tracking deliveries to reduce expenses and sharing any expense reduction with the mailers by the way of extra discounts. Therefore, Sansone meets or exceeds the inventor's limitation regarding the creation and communication of an assignment manifest to the appropriate carrier and tracking deliveries to measure performance.

**Claims 58-59 and 60-61:**

With regard to the limitations:

- ***Adjusting at least one business rule based on the measured performance.***
- ***Using measured performance to adjust a route.***

Sansone, does specifically disclose the limitations above, per se, however Sansone in at least Column 3, lines 22-25 states that the principal objective of the invention is to provide a system and apparatus that enables a more efficient and effective use of the postal facility. Sansone in at least Column 10 lines 65-67 and Column 11, lines 1-12 clearly states that a feature of the inventive system is to optimize delivery of mail and improvements in efficiency and cost savings can be achieved by a judicious choice of the conversion location utilizing such factors as location of addresses and mailers, location of second stations, location of Postal Offices, resources available including manpower, equipment, urgency of mail and batch sizes, etc. Sansone in at least FIG.6A, FIG.6B and Column 14, lines 5-31 still further discloses determining the optimum carrier and route which yields a greater efficiency. Furthermore, Williams (US 2002/0032573 A1)

in at least paragraph [0027] discloses auditing Carrier performance to collect information required to negotiate the most favorable rates with the associated Carriers.

Therefore, it would have been obvious, at the time of the invention, to one of ordinary skill to modify Sansone's System for Optimizing Mail Delivery by Routing with Williams' system for Auditing Carrier performance with the additional feature of using the performance data to not only negotiate the most favorable rates, but also to alter the routing and delivery process with the motivation of providing a measurement of past performance in order to develop and implement an action plan for improving the efficiency of an agency's routing and delivery of packages.

### **Conclusion**

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL DANNEMAN whose telephone number is (571)270-1863. The examiner can normally be reached on Mon.-Thurs. 6AM-5PM Fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Florian Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Paul Danneman/

Examiner, Art Unit 3627

22 September 2008

/F. Ryan Zeender/  
Supervisory Patent Examiner, Art Unit 3627